



Department of Justice

FOR IMMEDIATE RELEASE
THURSDAY, JUNE 26, 2008
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MAJOR INTERNATIONAL AIRLINES AGREE TO PLEAD GUILTY AND PAY CRIMINAL FINES TOTALING MORE THAN \$500 MILLION FOR FIXING PRICES ON AIR CARGO RATES

Air France-KLM Agrees to Pay the Second Highest Fine Ever Levied in a Criminal Antitrust Prosecution

WASHINGTON — Major international airlines—Société Air France (Air France), Cathay Pacific Airways Limited (Cathay), Koninklijke Luchtvaart Maatschappij N.V. (KLM Royal Dutch Airlines), Martinair Holland N.V. (Martinair), and SAS Cargo Group A/S (SAS)— have agreed to each plead guilty and pay criminal fines totaling \$504 million for participating in a multi-year conspiracy to fix prices for air cargo rates, the Department of Justice announced today. Of the \$504 million in fines, Air France-KLM, which now operates under common ownership by a single holding company, has agreed to pay a \$350 million criminal fine, the second highest fine ever levied in a criminal antitrust prosecution.

According to the charges filed today in the U.S. District Court for the District of Columbia, the airlines each engaged in a conspiracy to suppress and eliminate competition by fixing the cargo rates charged to customers for international air shipments. The charged conduct affected billions of dollars of consumer and other goods—including produce, clothing, electronics and medicines—shipped by these airlines and their competitors in the air cargo industry. The companies have each agreed to cooperate with the Department’s ongoing investigation.

The plea agreements are subject to court approval. Along with Air France-KLM’s \$350 million fine, Cathay has agreed to pay a \$60 million criminal fine, Martinair has agreed to pay a \$42 million criminal fine, and SAS has agreed to pay a \$52 million criminal fine. If the court accepts the plea agreements, it would bring the total fines imposed in the Antitrust Division’s investigation in the air transportation industry to more than \$1.27 billion, marking the highest total amount of fines ever imposed in a criminal antitrust investigation.

“Millions of American consumers and thousands of businesses—from the corner store to the biggest corporation—rely on the air transportation industry to provide the products we buy, sell, and use every day. This price-fixing conspiracy undermines our economy and harms the American people who, due to lack of true competition in this area, end up footing the bill,” said Kevin J. O’Connor, Associate Attorney General. “If the court imposes the \$350 million criminal fine called for in the Air France-KLM plea agreement, it would be one of the largest criminal fines ever obtained by the Department of Justice.”

Air France-KLM

Société Air France is a corporation organized and existing under the laws of France, and Koninklijke Luchtvaart Maatschappij N.V. is a corporation organized and existing under the laws of the Netherlands. At the start of the charged conspiracy period until May 2004, Air France and KLM Royal Dutch Airlines were operating as two separate, independent companies. Beginning in May 2004 and continuing through the remainder of the conspiracy period, the companies were under common ownership by a single holding company and began to integrate cargo operations outside of the United States. According to the charges, from on or about May 15, 2001, and continuing until February 2006, Air France-KLM:

- Participated in meetings, conversations and communications in the United States, Europe and elsewhere to discuss the cargo rates to be charged on trans-Atlantic air cargo shipments to and from the United States;
- Agreed during those meetings, conversations and communications on certain components of the cargo rates to charge for shipments on trans-Atlantic routes to and from the United States;
- Levied cargo rates in the United States and elsewhere in accordance with the agreements reached; and
- Engaged in meetings, conversations and communications in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon cargo rates.

Cathay

Cathay is a corporation organized and existing under the laws of the Hong Kong Special Administrative Region of the People's Republic of China (the HKSAR) with its principal place of business in the HKSAR. According to the charges, from at least as early as May 1, 2002, and continuing until at least Feb. 14, 2006, Cathay:

- Participated in meetings, conversations and communications in the HKSAR to discuss the cargo rates to be charged on routes from the HKSAR to the United States;
- Agreed during those meetings, conversations and communications on certain components of the cargo rates to charge for shipments on routes from the HKSAR to the United States;
- Levied cargo rates in accordance with the agreements reached; and
- Engaged in meetings, conversations and communications for the purpose of monitoring and enforcing adherence to the agreed-upon cargo rates.

Martinair

Martinair is a corporation organized and existing under the laws of the Netherlands with its principal place of business in Amsterdam, Netherlands. According to the charges, from at least as early as late September 2001 and continuing until at least Feb. 14, 2006, Martinair:

- Participated in meetings, conversations and communications in the United States and elsewhere to discuss the cargo rates to be charged on certain routes to and from the United States;
- Agreed during those meetings, conversations and communications on certain components of the cargo rates to charge for shipments on certain routes to and from the United States;
- Levied cargo rates in the United States and elsewhere in accordance with the agreements reached; and
- Engaged in meetings, conversations and communications in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon cargo rates.

SAS

SAS, a subsidiary of SAS AB, is a corporation organized and existing under the laws of Denmark with its principal place of business in Copenhagen, Denmark. According to the charges, from in or about February 2002 and continuing until at least Feb. 14, 2006, SAS:

- Participated in meetings, conversations and communications in the United States and elsewhere to discuss the cargo rates to be charged on certain trans-Atlantic routes to and from the United States;
- Agreed during those meetings, conversations and communications on certain components of the cargo rates to charge for shipments on certain trans-Atlantic routes to and from the United States;
- Levied cargo rates in the United States and elsewhere in accordance with the agreements reached; and
- Engaged in meetings, conversations and communications in the United States and elsewhere for the purpose of monitoring and enforcing adherence to the agreed-upon cargo rates.

“The air cargo conspirators artificially raised the prices paid to ship billions of dollars of goods,” said Scott D. Hammond, Deputy Assistant Attorney General in charge of Criminal Enforcement for the Department’s Antitrust Division. “When these companies and their co-conspirators got together and agreed to raise prices for air cargo shipments, American businesses and consumers ended up picking up the tab.”

The companies are each charged with price fixing in violation of the Sherman Act, which carries a maximum fine of \$100 million for corporations. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime if either of those amounts is greater than the statutory maximum fine.

On Aug. 23, 2007, British Airways Plc pleaded guilty and was sentenced to pay a \$300 million criminal fine for conspiring to fix cargo rates for international air shipments, including to and from the United States, and to fix passenger fuel surcharges for long-haul international air transportation, including between the United States and United Kingdom. The same day, Korean Air Lines pleaded guilty and was sentenced to pay a \$300 million criminal fine for conspiring to fix cargo rates charged to customers in the United States and elsewhere for international air shipments and to fix wholesale and passenger fares for flights from the United States to Korea. On Jan. 14, 2008, Qantas Airways Limited pleaded guilty and was sentenced to pay a \$61 million criminal fine for its role in a conspiracy to fix cargo rates to customers in the United States and elsewhere for international air shipments. On May 7, 2008, Japan Airlines pleaded guilty and was sentenced to pay a \$110 million criminal fine for conspiring to fix rates for international cargo shipments. On May 15, 2008, Bruce McCaffrey, Qantas' former highest-ranking executive employed in the United States, pleaded guilty to fixing cargo rates to customers in the United States and elsewhere for international air shipments, and agreed to serve eight months in jail, and to pay a criminal fine.

The ongoing investigation into the air transportation industry is being conducted by the following attorneys of the Antitrust Division's National Criminal Enforcement Section: Lisa Phelan-Chief, Mark Rosman-Assistant Chief, Brent Snyder, Mark Grundvig, Katie Hellings, Liz Aloï, Carsten Reichel, Michael Whitlock, Deana Timberlake-Wiley, Nancy McMillen, and Kate Schlech. The following Special Agents from the FBI's Washington Field Office participated in the investigation: Steve D'Antuono-Supervisor, Andy Sekela, Larry Stewart, Christina Page, Sean Ryan, Amanda Romek and Kat Andrews. The following Special Agents from the Federal Bureau of Investigation's (FBI) Northern Virginia Resident Agency office participated in the investigation: Maria Borsuk-Supervisor, Paul Geboski, Linna Mohler, Julie Neiger, Paula Ebersole, and Andrew Lenhart. The Department of Transportation's Office of Inspector General and the U.S. Postal Service's Office of Inspector General also participated in the investigation.

Anyone with information concerning price fixing or other anticompetitive conduct in the air transportation industry is urged to call the National Criminal Enforcement Section of the Antitrust Division at 202-307-6694 or the FBI Washington Field Office at 202-278-2000.

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